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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,541	09/23/2003	Behnam Pourdeyhimi	297/185/2	4635

25297 7590 10/05/2005

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EXAMINER

BERGERON, ROLAND C

ART UNIT PAPER NUMBER

3635

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,541

Applicant(s)

POURDEYHIMI ET AL.

Examiner

Roland Bergeron

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/23/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-20 have been examined.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,855,132 to Dugan.

Dugan shows in Figures 1-2 and discusses in the specification (column 1, lines 33-67 and column 2, lines 1-39) a roof gutter (1) or collecting rain water that includes low density (10%-70% by volume fraction) foam (2; porous filler material) which corresponds in shape to the interior gutter walls (5) and occupies the entire volume defined by the gutter walls (5). Dugan discusses the rain water is gravity fed into the gutter through the foam in a vertical direction and along the gutter in a horizontal direction corresponding to the pitch of said gutter. He also discusses that having a higher void volume (or pore elongation) in the foam increases the water capacity of the filler.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-6, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,855,132 to Dugan as applied Claim 1 above, in further view of U.S. Patent 5,776,567 to Schilling et al.

6. Dugan does not show or discuss fiber porous filler material. Schilling et al. does disclose in Figures 1-3 and discuss in the specification (column 1, lines 53-67, column 2, lines 1-7, lines 37-67 and column 3, lines 1-54) the use of fiber porous filler material (homo - bi or multi-component and hollow material(s)) used for the filtering and separating of liquid (e.g., rain water) and solid waste (e.g., leaves). Schilling et al. teaches about a layer (103) having three sub layers: a polymeric fibrous mat (302; fibrous material) with two interwoven layers (woven materials) of polymeric netting (304, 306; non fibrous material). He describes the use of one fiber material being the thickness of about 0.001 to 1.0 inches (less than or greater than 15 denier). He also discusses the use of polypropylene material for the filtering process is advantageous since it is durable, flexible, rust-proof, water insoluble, lightweight and inexpensive. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the roof gutter in combination with the foam porous filler material of

Art Unit: 3635

Dugan to trap rain material (e.g., leaves) from plugging the roof gutter and further modify the filler material to include an alternative multilayer fibrous or not fibrous material composition (s) as per the teachings of Schilling et al. in order to increase the water shedding capacity of the roof gutter. The motivation being that by further modifying the combination invention of the roof gutter with the foam filler material with a higher water capacity material that is considered more durable and flexible would only extend the life of use of the roof gutter assembly.

7. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,855,132 to Dugan as applied Claim 1 above, and in further view of U.S. Patent 5,776,567 to Schilling et al. as applied to Claims 2-6, 9 and 10 above, in further view of U.S. Patent 6,884,837 B2 to Kohlhammer et al.

8. Dugan does not show or discuss fiber porous filler material, the process for melting the core of fibers and the formations of web - fiber materials. Schilling et al does discuss the use of fiber porous filler material and does not discuss the process for melting the core of fibers and the formations of web - fiber materials.

Kohlhammer et al. teaches in the specification (column 1, lines 10-27) about the customary method for producing fiber nonwovens by using the airlay, wetlay or spunlay processes. Kohlhammer also teaches in the specification (column 6, lines 32-47) about important of fiber bonder or the fiber bonding process (bonded fibers by temperature elevation/melting) requirement for increasing the durability or resistance of the fibers to mechanical stress. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the roof gutter in combination with the foam porous filler material of

Art Unit: 3635

Dugan to trap rain material (e.g., leaves) from plugging the roof gutter and further modify the filler material to include an alternative stronger and more flexible multilayer fibrous or not fibrous material composition (s) as per the teachings of Schilling et al. while using the traditional method and process teachings of Kohlhammer et al. The motivation being that by further modifying the combination invention of the roof gutter with the foam filler material with a higher water capacity material and more mechanically resistant and flexible material would achieve a structure that would be more durable while improving the water flow rates through the roof gutter while continuing to effectively removing material that would reduce the efficiency of the roof gutter.

9. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,855,132 to Dugan as applied Claim 1 above, and in further view of U.S. Patent 5,776,567 to Schilling et al. as applied to Claims 2-6, 9 and 10 above and in further view of U.S. Patent 6,884,837 B2 to Kohlhammer et al. as applied to claims 7-8.

10. These claims recite the basic step of "method" as being the basic composition/combination of the root gutter and the porous filler material. As such, they merely recite the obvious composition/combination of the root gutter and the porous filler material recited in claims 1-10.

Art Unit: 3635

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Bergeron whose telephone number is (571) 272-2943. The examiner can normally be reached on 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RCB
10/3/05


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